

## INFORMATION SHEET ON CHANGING A CHILD SUPPORT ORDER (California Rules of Court, rule 1285.79)

### **General Information**

The court has just made a child support order in your case. This order will remain the same unless a party to the action requests that the support be changed (modified). An order for child support can be modified only by filing a Notice of Motion (NOM) or an Order to Show Cause (OSC) and serving each party involved in your case. If both parents and the district attorney (if involved) agree on a new child support amount, you can complete, have all parties sign, and file with the court a *Stipulation to Establish or Modify Child Support Order* (form 1285.27).

### **When a Child Support Order May Be Modified**

The court takes several things into account when ordering the payment of child support. First, the number of children is considered. Next, the net income of both parents is determined, along with the percentage of time each parent has physical custody of the child(ren). The court considers both parties' tax filing status and may consider hardships, such as a child of another relationship. An existing order for child support may be modified when there has been a significant change in one of the parent's net income or a significant change in the parenting schedule or when a new child is born.

**Examples:** You have been ordered to pay \$500 per month in child support. You lose your job. You will continue to owe \$500 per month, plus 10% interest on any unpaid support, unless you file a NOM or OSC to modify your child support to a lower amount and the court orders a reduction.

You are currently receiving \$300 per month for child support from the other parent, whose net income has just increased substantially. You will continue to receive \$300 per month unless you file a NOM or OSC to modify your child support to a higher amount and the court orders an increase.

You are paying child support based upon having physical custody of your child(ren) 30% of the time. After several months it turns out that you actually have physical custody of the child(ren) 50% of the time. You may file a NOM or OSC to modify child support to a lower amount.

### **How to Modify an Existing Child Support Order**

#### **1. Obtain and fill out the modification forms.**

The forms are available from the court clerk, Family Law Facilitator, your local law library, and from various legal publishers. You will need to complete the following forms:

- *Order to Show Cause* (form 1285) **or** *Notice of Motion* (form 1285.10) **and** *Application for Order and Supporting Declaration* (form 1285.20) **or** *Notice of Motion and Motion for Simplified Modification of Order for Child Support* (form 1285.30).
- *Income and Expense Declaration* (forms 1285.50, 1285.50a, 1285.50b, 1285.50c) **or** *Financial Statement (Simplified)* (form 1285.52).

#### **2. File the forms and obtain a hearing date from the court clerk. Write the hearing date on the modification forms. You will have to pay a filing fee. If you cannot afford a filing fee you can request a waiver of the fee by filing an *Application for Waiver of Court Fees and Costs* (form 982(a)(17)).**

#### **3. "Serve" the modification forms on the other parent, and, if involved, on the district attorney.**

"Service" means "legally" delivering a copy of the papers. The forms generally must be served no later than 20 days prior to the hearing. The delivery can normally be done by mail, but must be done by a person over the age of 18 **other than you**. This person must serve all papers you completed for the court as well as a blank *Responsive Declaration* (form 1285.40) and blank *Income and Expense Declaration* (forms 1285.50, 1285.50a, 1285.50b, 1285.50c) or *Financial Statement (Simplified)* (form 1285.52).

#### **4. File *Proof of Service* (form 1285.85 or 1285.84) with the court clerk that the court papers were served on the other parent and, if involved, the district attorney.**

#### **5. Attend the court hearing.**

Bring your most recent two years of tax returns and three most recent pay stubs to the court hearing. The judge will review your modification forms and the other parent's response, listen to both of you, and make an order. You should then prepare a *Findings and Order After Hearing* (form 1296.31).

**If you are unable to complete these forms by yourself, contact the Family Law Facilitator in your county or the Lawyer Referral Service of your local bar association or check the yellow pages of your telephone book under "Attorneys."**